

## **EXHIBIT 10**

## Feigenbaum, Steven

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**From:** Feigenbaum, Steven  
**Sent:** Wednesday, June 26, 2019 9:17 AM  
**To:** Gerard Filitti  
**Cc:** Adams, Haley  
**Subject:** RE: BNYM

Gerard: Please stop using such inflammatory language as “refusing to comply” to characterize BNYM’s position. BNYM is not “refusing to comply” with the Gill and Hake subpoenas. It has, in its view, long since complied with them, but you continue to shift the goalposts and insist on ever-more data, without ever saying why the data further the objectives of enforcing the Gill judgment or obtaining a judgment in Hake. And your mischaracterization of BNYM’s position seems to be part of a pattern, as evidenced by, for instance, the blatant misstatements made in your 5/31/19 letter to Judge Parker regarding the timing of JPMorgan’s compliance with your subpoenas.

That said, I will forward your email to BNYM, and we will decide how to respond. Since it took you six weeks to respond to my last email, you cannot reasonably expect BNYM to respond to your email by this Friday. I myself have opposition papers due Friday on another matter and a separate motion due on Monday, so my time between now and next Tuesday is limited. Nor, at this moment, do I know the schedules of those involved at BNYM. Still, we will aim to respond to your email as soon as possible, and certainly before the July 4 weekend.

Steve

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**From:** Gerard Filitti [mailto:gfilitti@osenlaw.com]  
**Sent:** Tuesday, June 25, 2019 9:42 PM  
**To:** Feigenbaum, Steven  
**Cc:** Adams, Haley  
**Subject:** RE: BNYM

Dear Steve,

Below are our responses to your latest email refusing to comply with the subpoenas, in a final attempt to avoid unnecessary motion practice. In order to comply with the Court’s June 21, 2019 order, please let me know by Friday, June 28, 2019 if BNYM will comply with the *Gill* and *Hake* subpoenas *in their entirety* by producing all responsive records by Friday, July 12, 2019. Otherwise, we will propose a briefing schedule to you.

### The Gill Subpoenas

First, as is clear from their face, the *Gill* subpoenas are **not** “subsumed, in their entirety, by the Hake subpoena,” as you stated in your email below. While there is *some* overlap between the subject entities identified in the *Hake* subpoena and in *one* of the *Gill* subpoenas, the *Gill* subpoenas identify a

number of other unique subject entities. Accordingly, we repeat our request that BNYM make a supplemental production responsive to the *Gill* subpoenas, which BNYM received nearly two years ago. Furthermore, in order to prevent any confusion going forward, we ask that BNYM provide a log showing the entities that it searched for and the keywords, terms and connectors it used in conducting these searches, along with the databases searched. The log will also help clarify whether BNYM's searches were complete and comprehensive.

#### SWIFT Fields 20 and 21

With respect to SWIFT message fields 20 and 21, we request that BNYM update its production by populating spreadsheets with the contents of those fields. Your stated reasons for withholding that information are unsupportable. First, the fact that other, unrelated parties have not historically requested this information is obviously irrelevant to our subpoenas. Second, BNYM's characterization of the requested information as "internal" to BNYM is simply untrue (and irrelevant even if it were true, as that data is not privileged). Those fields are populated with information provided by a party to a transaction transmitted via SWIFT messaging (which is then processed by BNYM and other banks) in order to facilitate its processing.

According to your e-mail, "[t]o the extent there are no data in any of the paired fields identified in your email, that is likely because either no data exist or no data were provided to BNYM by the remitter...in a given wire transfer." The absence of data in the paired fields heightens the importance of the data contained in fields 20 and 21 in order for plaintiffs to understand the flow of funds moved via these messages. These messages help plaintiffs do so even where certain information has been stripped out.

#### Redacted Data

Finally, plaintiffs yet again request that BNYM provide unredacted versions of the spreadsheets relating to the nine subject entities we identified. BNYM lacks any compelling reason to refuse to provide unredacted data, especially since both the *Hake* and *Gill* courts entered the Protective Order that BNYM agreed to. Indeed, as your e-mail acknowledges, BNYM previously produced unredacted versions of spreadsheets.

Best regards,

Gerard

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